

Message

From: Dunlap, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=591EB15A268249DDA0C05A7451F765C3-DUNLAP, DAV]
Sent: 1/11/2021 7:48:46 PM
To: Dunn, Alexandra [dunn.alexandra@epa.gov]
Subject: Fwd: on the PFBS toxicity assessment

Sent from my iPhone

Begin forwarded message:

From: "Dunlap, David" <dunlap.david@epa.gov>
Date: January 11, 2021 at 2:38:56 PM EST
To: "Hoverman, Taylor" <hoverman.taylor@epa.gov>
Subject: Fwd: on the PFBS toxicity assessment

Sent from my iPhone

Begin forwarded message:

From: "Bolen, Brittany" <bolen.brittany@epa.gov>
Date: January 11, 2021 at 2:20:53 PM EST
To: "Dunlap, David" <dunlap.david@epa.gov>
Subject: FW: on the PFBS toxicity assessment

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Monday, January 11, 2021 2:13 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Wheeler, Kevin <Wheeler.Kevin@epa.gov>; Yarbrough, John (Daniel) <Yarbrough.Daniel@epa.gov>; Curry, Bridgid <Curry.Bridgid@epa.gov>; Manibusan, Mary <Manibusan.Mary@epa.gov>; Corrales, Mark <Corrales.Mark@epa.gov>
Subject: on the PFBS toxicity assessment

We received the final version of this document from ORD today, with a request that it go to OMB today. Under that timeline, we will not be able to provide a substantive review or even a 1 pager. I understand we are being asked to send the toxicity assessment to OMB consistent with a memo the EPA Administrator received from the ORIA Administrator on Friday. Before we route this action for approval in Notes, I want you to be aware that sending this to OMB raises a host of fundamental procedural and substantive concerns, which are included below for your awareness and consideration.

Ex. 5 Deliberative Process (DP)

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- The OIRA memo directly contradicts a policy position repeatedly affirmed by the Administrator during development and OMB review of the rule on guidance, specifically, that IRIS values are not guidance
- The memo is an incredibly consequential departure from past practice in how EO 12866 has been implemented and is a dramatic expansion of the scope of 12866. IRIS values, PPRTVs, and similar scientific work have not been considered within the scope of 12866
- IRIS values already have a long standing, regularly used, lengthy interagency review process to address interagency equities
- Asserting that IRIS values (and other similar work products) are now guidance throws into question the status of all current IRIS values since, consistent with direction from the Administrator, they were not included on the EPA guidance portal
- It is not clear that OIRA has the ability to unilaterally deem EPA work products as guidance
- It is not clear that IRIS values and similar scientific work products are “guidance” within the meaning of EO 13891 or “regulatory actions” within the meaning of EO 12866, particularly since for decades, they have not been considered as such
- The full implications and consequences of the memo should be understood before EPA starts acting in accordance with it. I’m not aware of any substantive reason why the PFBS toxicity assessment needs to be finalized this week, and the transaction on that document is what is forcing EPA’s apparent compliance with a consequential memo the Administrator just received on Friday. If the intent is to finalize the assessment this week, it is not clear that is sufficient time for meaningful interagency review.
- The PFAS toxicity assessments, including this specific one on PFBS, have an existing interagency review mechanism in place; any interagency equities could more easily be addressed that way